

APPEAL

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:04-cv-10927-RGS**

Jordan et al v. Carter et al  
Assigned to: Judge Richard G. Stearns  
Case in other court: First Circuit, 05-01195  
Cause: 42:1983 Civil Rights Act

Date Filed: 05/10/2004  
Date Terminated: 07/09/2007  
Jury Demand: None  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Ronald Jordan**

represented by **Douglas I. Louison**  
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**Plaintiff**

**Robert McKay**

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**Michael E. Bonenfant**  
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*ATTORNEY TO BE NOTICED*

**Plaintiff**

**The MBTA Police Patrolman's Union**

represented by **Douglas I. Louison**  
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**James W. Simpson, Jr.**

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TERMINATED: 08/07/2007

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**William E. Campbell**

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V.

**Defendant****Joseph C. Carter***individually and as Chief of the MBTA**Police Department*represented by **Mark W. Batten**

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ATTORNEY TO BE NOTICED

**Defendant****The MBTA Police Department**represented by **Mark W. Batten**

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ATTORNEY TO BE NOTICED

| Date Filed | #                        | Docket Text  |
|------------|--------------------------|--|
| 05/10/2004 | <a href="#"><u>1</u></a> | COMPLAINT Filing fee: \$ 150, receipt number 55790, filed by Ronald Jordan, Robert McKay, The MBTA Police Patrolman's Union.(Flaherty, Elaine) (Entered: 05/12/2004)                                     |
| 05/10/2004 | <a href="#"><u>2</u></a> | Summons Issued as to Joseph C. Carter, The MBTA Police Department. (Flaherty, Elaine) (Entered: 05/12/2004)  |
| 05/10/2004 | <a href="#"><u>3</u></a> | If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Alexander. (Flaherty, Elaine) (Entered: 05/12/2004) |
| 05/10/2004 | <a href="#"><u>2</u></a> | MOTION for Leave to Appear Pro Hac Vice by Bonenfant Filing fee \$ 50., receipt number 55790. by Ronald Jordan.(Flaherty, Elaine) (Entered: 05/24/2004)  |
| 05/24/2004 | <a href="#"><u>3</u></a> | Judge Richard G. Stearns : Electronic ORDER entered granting 2 Motion  |

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|            |            | for Leave to Appear Pro Hac Vice (Flaherty, Elaine) (Entered: 05/24/2004)  |
| 06/21/2004 | <u>34</u>  | MOTION for Entry of Default by Ronald Jordan, Robert McKay, The MBTA Police Patrolman's Union.(Flaherty, Elaine) (Entered: 06/29/2004)   |
| 06/23/2004 | <u>33</u>  | MOTION for Extension of Time to 07/09/2004 to File Answer. MOTION to Set Aside Default by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 06/23/2004)  |
| 06/28/2004 | <u>3</u>   | Judge Richard G. Stearns : Electronic ORDER entered granting <u>3</u> Motion for Extension of Time to Answer Joseph C. Carter, The MBTA Police Department finding as moot <u>4</u> Motion for Entry of Default (Flaherty, Elaine) Modified on 9/1/2004 (Flaherty, Elaine). (Entered: 06/29/2004)   |
| 07/09/2004 | <u>35</u>  | ANSWER to Complaint by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 07/09/2004)   |
| 08/02/2004 | <u>36</u>  | NOTICE of Scheduling Conference. Scheduling Conference set for 9/1/2004 03:15 PM in Courtroom 21 before Judge Richard G. Stearns. (Johnson, Mary) (Entered: 08/03/2004)  |
| 08/06/2004 | <u>37</u>  | Document disclosure by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 08/06/2004)   |
| 08/12/2004 | <u>38</u>  | CERTIFICATION pursuant to Local Rule 16.1 by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 08/12/2004)   |
| 08/25/2004 | <u>39</u>  | JOINT STATEMENT re scheduling conference. (Batten, Mark) (Entered: 08/25/2004)   |
| 09/01/2004 | <u>310</u> | Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Scheduling Conference held on 9/1/2004. Atty. Bonifant present for the pltf. Atty. Batten present for the deft. All fact discovery shall be completed by 2-4-05. Dispositive motions shall be filed by 3-4-05 with responses due 14 days thereafter. (Court Reporter None.) (Johnson, Mary) Modified on 9/16/2004 (Johnson, Mary). (Entered: 09/16/2004) |
| 11/03/2004 | <u>311</u> | MOTION to Amend <i>Answer</i> by Joseph C. Carter, The MBTA Police Department. (Attachments: # <u>1</u> Proposed Amended Answer)(Batten, Mark) (Entered: 11/03/2004)   |
| 11/03/2004 | <u>312</u> | MOTION for Judgment on the Pleadings by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 11/03/2004)  |
| 11/03/2004 | <u>313</u> | MEMORANDUM in Support re <u>12</u> MOTION for Judgment on the Pleadings filed by Joseph C. Carter, The MBTA Police Department. (Batten, Mark) (Entered: 11/03/2004)  |
| 11/18/2004 | <u>314</u> | MEMORANDUM in Opposition re <u>12</u> MOTION for Judgment on the Pleadings filed by Ronald Jordan, Robert McKay, The MBTA Police Patrolman's Union. (Flaherty, Elaine) (Entered: 11/23/2004)   |
| 12/02/2004 | <u>315</u> | REPLY to Response to Motion re <u>12</u> MOTION for Judgment on the  |

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|            |                           | Pleadings filed by Joseph C. Carter. The MBTA Police Department. (Batten, Mark) (Entered: 12/02/2004)   |
| 12/02/2004 | <a href="#"><u>16</u></a> | NOTICE of Hearing on Motion <u>12</u> . MOTION for Judgment on the Pleadings: Motion Hearing set for 1/14/2005 02:30 PM in Courtroom 21 before Judge Richard G. Stearns. (Johnson, Mary) (Entered: 12/02/2004)  |
| 12/02/2004 | <a href="#"><u>17</u></a> | AFFIDAVIT of Dolores Ford-Murphy by The MBTA Police Department. (Flaherty, Elaine) (Entered: 12/08/2004)  |
| 12/02/2004 | <a href="#"><u>19</u></a> | APPENDIX/EXHIBIT re <u>17</u> Affidavit by The MBTA Police Department Volumes I and II, FILED. (Flaherty, Elaine) (Entered: 01/12/2005)   |
| 12/20/2004 | <a href="#"><u>18</u></a> | NOTICE of Appearance by Douglas I. Louison on behalf of Ronald Jordan, Robert McKay, The MBTA Police Patrolman's Union (Flaherty, Elaine) (Entered: 12/23/2004)   |
| 01/14/2005 | <a href="#"><u>20</u></a> | SUR-REPLY to Motion re <u>12</u> MOTION for Judgment on the Pleadings filed by Ronald Jordan, Robert McKay, The MBTA Police Patrolman's Union. (Louison, Douglas) (Entered: 01/14/2005)   |
| 01/14/2005 | <a href="#"><u>20</u></a> | Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Motion Hearing held on 1/14/2005 re <u>12</u> MOTION for Judgment on the Pleadings filed by The MBTA Police Department,, Joseph C. Carter. Attys. Louison and Bonifant present for the plaintiffs. Atty. Batten present for the defts. The Union agrees to voluntarily dismiss its claims, as it is an improper party. Plaintiffs waive Counts I and II (due process claims). Court DENIES Motion for Judgment on the Pleadings as to Counts III and IV (free speech claims). Counts V and VI (freedom of association claims) are DISMISSED without prejudice. Plaintiffs may seek leave to amend claims V and VI if an appropriate legal theory is established. The motion is ALLOWED as to Count VII. The motion asserting Carter's defense of qualified immunity is DENIED. (Court Reporter Valerie O'Hara.) (Johnson, Mary) Modified on 1/14/2005 (Johnson, Mary) (Entered: 01/14/2005) |
| 01/14/2005 | <a href="#"><u>20</u></a> | Judge Richard G. Stearns : ElectronicORDER entered granting in part and denying in part <u>12</u> Motion for Judgment on the Pleadings. (Johnson, Mary) (Entered: 01/14/2005)   |
| 02/01/2005 | <a href="#"><u>21</u></a> | NOTICE OF INTERLOCUTORY APPEAL as to Order on Motion for Judgment on the Pleadings by Joseph C. Carter. Filing fee \$ 255. Appeal Record due by 2/22/2005. (Batten, Mark) (Entered: 02/01/2005)   |
| 02/08/2005 | <a href="#"><u>22</u></a> | Certified and Transmitted Record on Appeal to US Court of Appeals re <u>21</u> Notice of Interlocutory Appeal (Ramos, Jeanette) (Entered: 02/08/2005)   |
| 02/15/2005 | <a href="#"><u>23</u></a> | USCA Case Number 05-1195 for <u>21</u> Notice of Interlocutory Appeal filed by Joseph C. Carter.. (Ramos, Jeanette) (Entered: 02/15/2005)   |
| 02/22/2005 | <a href="#"><u>23</u></a> | Filing fee: \$ 255., receipt number 62113 regarding notice of appeal (Flaherty, Elaine) (Entered: 02/22/2005)   |
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| 02/23/2005 | <a href="#"><u>23</u></a> | Motions terminated: <u>11</u> PER RGS. (Flaherty, Elaine) (Entered: 02/23/2005)   |
| 02/23/2005 | <a href="#"><u>24</u></a> | Supplemental Record on Appeal transmitted to US Court of Appeals re <u>21</u> Notice of Interlocutory Appeal, filing fee paid receipt. (Ramos, Jeanette) (Entered: 02/23/2005)  |
| 12/01/2005 | <a href="#"><u>25</u></a> | MANDATE of USCA as to <u>21</u> Notice of Interlocutory Appeal filed by Joseph C. Carter. This cause came on to be heard on appeal from the United States District Court for the District of Massachusetts, and was argued by counsel. Upon consideration whereof, it is now here ordered, adjudged and decreed as follows: The district court's denial of Joseph C. Carter's motion to dismiss the individual claims on the defense of qualified immunity is affirmed. (Ramos, Jeanette) (Entered: 12/01/2005) |
| 03/24/2006 | <a href="#"><u>25</u></a> | Appeal Record Returned: <u>21</u> Notice of Interlocutory Appeal (Ramos, Jeanette) (Entered: 03/24/2006)  |
| 07/11/2006 | <a href="#"><u>26</u></a> | Judge Richard G. Stearns : ORDER entered. PROCEDURAL ORDER re trial: Jury Trial set for 10/30/2006 09:00 AM in Courtroom 21 before Judge Richard G. Stearns.(Johnson, Mary) (Entered: 07/20/2006)   |
| 08/08/2006 | <a href="#"><u>27</u></a> | Assented to MOTION to Continue Trial to Until further order of the Court by all defendants.(Batten, Mark) (Entered: 08/08/2006)   |
| 08/10/2006 | <a href="#"><u>27</u></a> | Judge Richard G. Stearns : Electronic ORDER entered granting <u>27</u> Motion to Continue. "Allowed. The partes might address the relevance, if any, of the holding in Garcetti v. Ceballos, 126 S. Ct. 1951 (2006). R. G. Stearns, USDJ." (Johnson, Mary) (Entered: 08/11/2006)  |
| 10/20/2006 | <a href="#"><u>28</u></a> | NOTICE of Appearance by Eben A. Krim on behalf of Joseph C. Carter. The MBTA Police Department (Krim, Eben) (Entered: 10/20/2006)   |
| 10/23/2006 | <a href="#"><u>29</u></a> | Joint MOTION for Extension of Time to 11-2-06 and 12-15-06 to Complete Discovery and File Motions for Summary Judgment by Ronald Jordan, Robert McKay, The MBTA Police Patrolman's Union.(Simpson, James) (Entered: 10/23/2006)   |
| 10/26/2006 | <a href="#"><u>29</u></a> | Judge Richard G. Stearns : Electronic ORDER entered granting <u>29</u> Motion for Extension of Time to file summary judgment by 12/15/06. opps due 1/19/07 (Flaherty, Elaine) (Entered: 10/26/2006)   |
| 12/15/2006 | <a href="#"><u>30</u></a> | MOTION for Summary Judgment by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 12/15/2006)  |
| 12/15/2006 | <a href="#"><u>31</u></a> | Assented to MOTION for Leave to File Excess Pages in Support of Motion for Summary Judgment by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 12/15/2006)  |
| 12/15/2006 | <a href="#"><u>32</u></a> | MEMORANDUM in Support re <u>30</u> MOTION for Summary Judgment filed by Joseph C. Carter, The MBTA Police Department. (Batten, Mark) (Entered: 12/15/2006)  |
| 12/15/2006 | <a href="#"><u>33</u></a> | Statement of Material Facts L.R. 56.1 re <u>30</u> MOTION for Summary   |

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|            |           | Judgment filed by Joseph C. Carter, The MBTA Police Department. (Batten, Mark) (Entered: 12/15/2006)  |
| 12/15/2006 | <u>34</u> | NOTICE by Joseph C. Carter, The MBTA Police Department re <u>33</u> Statement of Material Facts L.R. 56.1 <i>Of Manual/Paper Filing Of Attachments</i> (Batten, Mark) (Entered: 12/15/2006)   |
| 12/20/2006 | <u>35</u> | APPENDIX/EXHIBIT re <u>33</u> Statement of Material Facts L.R. 56.1 by Joseph C. Carter, The MBTA Police Department. (Flaherty, Elaine) (Entered: 12/28/2006)   |
| 01/04/2007 |           | Judge Richard G. Stearns : Electronic ORDER entered granting <u>31</u> Motion for Leave to File Excess Pages (29 pages) (Flaherty, Elaine) (Entered: 01/04/2007)  |
| 01/05/2007 | <u>36</u> | Assented to MOTION for Extension of Time to February 2, 2007 to File Response/Reply by Ronald Jordan, Robert McKay.(Simpson, James) (Entered: 01/05/2007)   |
| 01/08/2007 |           | Judge Richard G. Stearns : Electronic ORDER entered granting <u>36</u> Motion for Extension of Time to File Response/Reply re <u>30</u> MOTION for Summary Judgment Responses due by 2/2/2007 (Flaherty, Elaine) (Entered: 01/10/2007)  |
| 02/02/2007 | <u>37</u> | NOTICE of Appearance by James W. Simpson, Jr on behalf of Ronald Jordan, Robert McKay (Simpson, James) (Entered: 02/02/2007)  |
| 02/02/2007 | <u>38</u> | Opposition re <u>30</u> MOTION for Summary Judgment filed by Ronald Jordan, Robert McKay. (Simpson, James) (Entered: 02/02/2007)  |
| 02/02/2007 | <u>39</u> | STATEMENT of facts. (Simpson, James) (Entered: 02/02/2007)  |
| 02/07/2007 |           | ELECTRONIC NOTICE of Hearing on Motion <u>30</u> MOTION for Summary Judgment: Motion Hearing set for 4/13/2007 02:30 PM in Courtroom 21 before Judge Richard G. Stearns. (Johnson, Mary) (Entered: 02/07/2007)  |
| 02/08/2007 | <u>40</u> | Assented to MOTION to Continue Argument on Defendants' Motion for Summary Judgment to 3/22/2007 or 4/9/2007 or Other Date by Joseph C. Carter, The MBTA Police Department.(Batten, Mark) (Entered: 02/08/2007)  |
| 02/09/2007 |           | Judge Richard G. Stearns : Electronic ORDER entered granting <u>40</u> Motion to Continue. " The Hearing is re-scheduled to 4/19/2007 at 02:30 PM in Courtroom 21 before Judge Richard G. Stearns." (Johnson, Mary) (Entered: 02/09/2007)   |
| 04/20/2007 |           | Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Motion Hearing held on 4/19/2007 re <u>30</u> MOTION for Summary Judgment filed by The MBTA Police Department..Joseph C. Carter. Attorney Simpson present for plaintiffs: Attorney Batten present for defendants. After argument, the court takes the matter under advisement. (Court Reporter James Gibbons.) (Tyler, Rebecca) (Entered: 04/20/2007) |

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| 07/06/2007 | 41 | Judge Richard G. Stearns : Memorandum and Order entered. (Giannotti, Diane) (Entered: 07/06/2007)  |
| 07/09/2007 |    | Civil Case Terminated. (Flaherty, Elaine) (Entered: 07/09/2007)  |
| 07/10/2007 | 42 | Judge Richard G. Stearns : JUDGMENT entered in favor of the defendants. (Johnson, Mary) (Entered: 07/10/2007)  |
| 08/03/2007 | 43 | NOTICE of Withdrawal of Appearance by James W. Simpson, Jr (Simpson, James) (Entered: 08/03/2007)  |
| 08/03/2007 | 44 | NOTICE of Appearance by Stephen C. Pfaff on behalf of Ronald Jordan, Robert McKay (Pfaff, Stephen) (Entered: 08/03/2007)   |
| 08/03/2007 | 45 | Joint NOTICE OF APPEAL by Ronald Jordan, Robert McKay Filing fee \$ 455, receipt number 1618447 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 8/23/2007. (Pfaff, Stephen) (Entered: 08/03/2007) |
| 08/06/2007 | 46 | NOTICE of Appearance by Valerie A. McCormack on behalf of Ronald Jordan, Robert McKay (McCormack, Valerie) (Entered: 08/06/2007)   |